

ASSEMBLY BILL

No. 1776

**Introduced by Committee on Banking and Finance (Wiggins
(Chair), Calderon, Chan, Chavez, Correa, Montanez, and
Vargas)**

March 18, 2003

An act to amend Section 2105 of the Corporations Code, relating to foreign corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1776, as introduced, Committee on Banking and Finance. Foreign corporations: production of records.

Existing law prohibits a foreign corporation from transacting intrastate business without first obtaining a certificate of qualification from the Secretary of State. To obtain that certificate, the foreign corporation must file a signed statement with specified information regarding the corporation, including the name of an agent who may be served with process within this state, and an irrevocable consent to service of process as specified. Existing law provides that this irrevocable consent applies to service of a search warrant issued pursuant to a specific provision for records or documents related to communications that are located outside of this state whether or not the foreign corporation is a party or a nonparty to the matter in which the search warrant is sought. The law authorizing a warrant for records and documents relating to communications has a provision defining proper service as delivery by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service, or facsimile to a corporate agent, as specified.

Existing law also provides for the production of records in response to other types of search warrants, and in response to subpoenas, and provides for a victim of identity theft to receive information concerning any applications or accounts in the victim's name on a specified showing.

This bill would specify that a foreign corporation's irrevocable consent to service of process includes service of search warrants in addition to those already specified, service of subpoenas, and of requests for information concerning applications or accounts in the name of a victim of identity theft. This bill would also state that the irrevocable consent to service of process for all these specified means of gathering records extends to records located both inside and outside of the state.

In addition, this bill would explicitly permit the same means of serving a foreign corporation as are authorized in the provisions authorizing special communications warrants to apply to any search warrant, subpoena, or the specified request for identity theft records.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2105 of the Corporations Code is
2 amended to read:
3 2105. (a) A foreign corporation shall not transact intrastate
4 business without having first obtained from the Secretary of State
5 a certificate of qualification. To obtain that certificate it shall file,
6 on a form prescribed by the Secretary of State, a statement and
7 designation signed by a corporate officer stating:
8 (1) Its name and the state or place of its incorporation or
9 organization.
10 (2) The address of its principal executive office.
11 (3) The address of its principal office within this state, if any.
12 (4) The name of an agent upon whom process directed to the
13 corporation may be served within this state. Such designation shall
14 comply with the provisions of subdivision (b) of Section 1502.
15 (5) (A) Its irrevocable consent to service of process directed to
16 it upon the agent designated and to service of process on the
17 Secretary of State if the agent so designated or the agent's



1 successor is no longer authorized to act or cannot be found at the
2 address given.

3 (B) Consent under this paragraph extends to service of process
4 directed to the foreign corporation's agent in California for a
5 search warrant issued pursuant to Section 1524.2 of the Penal
6 Code, *or for any other validly issued and properly served search*
7 *warrant, subpoena, or request pursuant to Section 530.8 of the*
8 *Penal Code* for records or documents that are in the possession of
9 the foreign corporation and are located *inside or outside* of this
10 state. This subparagraph shall apply to a foreign corporation that
11 is a party or a nonparty to the matter for which the search warrant,
12 *subpoena, or request* is sought. *For purposes of this*
13 *subparagraph, "properly served" means delivered by hand, or in*
14 *a manner reasonably allowing for proof of delivery if delivered by*
15 *United States mail, overnight delivery service, or facsimile to a*
16 *person or entity listed in Section 2110 of the Corporations Code.*

17 (6) If it is a corporation which will be subject to the Insurance
18 Code as an insurer, it shall so state that fact.

19 (b) Annexed to that statement and designation shall be a
20 certificate by an authorized public official of the state or place of
21 incorporation of the corporation to the effect that such corporation
22 is an existing corporation in good standing in that state or place or,
23 in the case of an association, an officers' certificate stating that it
24 is a validly organized and existing business association under the
25 laws of a specified foreign jurisdiction.

26 (c) Before it may be designated by any foreign corporation as
27 its agent for service of process, any corporate agent must comply
28 with Section 1505.

